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MALCOLM J. CHISHOLM, Jr.

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The submitted papers are:

1. This Certificate of Transmission under 37 CFR. 1.8;
2. A "Transmittal Form" (1 page); and,
3. An "Interview Summary" (4 pages) for U.S. Patent Application No. 10/702,181, filed on 11/05/2003, and entitled "PERFORMRANCE ENHANCING BREAK-IN METHOD FOR A PEM FUEL CELL".

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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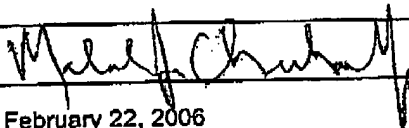
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| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | Application Number | 10702,181 | |
| | Filing Date | 11/05/2003 | |
| | First Named Inventor | SCHROOTEN, Jeremy A. | |
| | Group Art Unit | 1746 | |
| | Examiner Name | HODGE, Robert W. | |
| Total Number of Pages In This Submission | 6 | Attorney Docket Number | C-3064 |

| ENCLOSURES (check all that apply) | | |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Transmission Under 37 CFR 1.8 And an Interview Summary |
| Remarks | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
|--|---|
| Firm or Individual name | Malcolm J. Chisholm, Jr., Attorney at Law |
| Signature |  |
| Date | February 22, 2006 |

| CERTIFICATE OF MAILING | |
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| Typed or printed name | Malcolm J. Chisholm, Jr. |
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Application No. : 10/702,181 Confirmation No. 7541
Applicant : SCHROOTEN, Jeremy A., et al.
Filed : 11/05/2003
TC/A.U. : 1746
Examiner : HODGE, Robert W.
Docket No. : C-3064
Interview Summary Dated : January 26, 2006

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P.O. Box 1450
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

On January 26, 2006 the undersigned Malcolm J. Chisholm, Jr. and Examiner Robert Hodge participated in a telephone interview regarding the above referenced patent application. The interview was initiated by the undersigned in response to an "Advisory Action Before the Filing of an Appeal Brief" of January 18, 2006. The Advisory Action at Section 7 indicated that claim 1 was allowed, that claim 8 was objected to, and that claims 1-7 and 9 were rejected, and at section 7(b) that Applicants' proposed Amendment of December 30, 2005 "will be entered" for purposes of an appeal.

After conferring with co-counsel and Applicants, the undersigned initiated the January 26, 2006 telephone interview to ascertain whether-or-not a subsequent Amendment After Final would be entered if the claims were amended to include the limitations of objected to claim 8 into independent claim 5, and if so, whether-or-not the remaining dependent claims 6, 7 and 9 would be allowed. Additionally, Applicants sought to better understand the Examiner's position recited in his January 18, 2006 Advisory Action that the reference U.S. Pre-Grant

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Publication No. 2003/0224227 to Voss shows "hydrogen being present on both the anode and cathode sides...." In particular, Applicants sought to ascertain the Examiner's understanding of the source of that teaching within Voss to thereby prepare for prosecution of any continuing application.

With this background, the Applicants' summary of the January 26 interview is as follows:

The undersigned initiated the telephone call on January 26, 2006 and thanked the Examiner for his expenditure of time in discussing the status of the Application. First, the undersigned indicated the Applicants had decided to amend objected to dependent claim 8 into independent claim 5, and then asked the Examiner if such an amendment was filed, would the amendment be entered, and would that place claim 5 in condition for allowance. The Examiner indicated that would make claim 5 allowable. Second, the undersigned asked the Examiner if claim 5 was thereby made allowable, would pending dependent claims 6, 7 and 9 that depend from claim 5 then be allowable as well. The Examiner indicated those claims would be allowed as depending from an allowed independent claim and the Amendment would be entered if claim 8 was rewritten in independent form including all of the limitations of the base claim, claim 5, and any intervening claims, as the Examiner had stated in his Final Office Action of October 28, 2005. The undersigned thanked the Examiner, and indicated such an amendment would be filed without delay.

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Next, the undersigned moved to a discussion of the Voss reference, seeking to identify the location in Voss of the aforesaid teaching of hydrogen on the cathode. The Examiner confirmed the undersigned's suggestion that the teaching arises from paragraph 0026 of Voss, wherein Voss suggests that a conditioning load permits the evolution of hydrogen at the cathode as a result of "current flow through the conditioning load" (Voss, at paragraph 0026, page 3, line 14). The undersigned responded that Applicants' performance enhancing break-in method is substantially distinct, and instead involves a flow of reactant gas adjacent the cathode during the method, and does not use a "conditioning load" and current flow to evolve hydrogen at the cathode. Instead, the undersigned explained that Applicants' Method measures potential without a need for current flow between the electrodes. The Examiner responded that a traditional definition of "potential" requires current flow, and then read a definition of the word "potential". The undersigned responded that he was not trying to argue definitions, but rather to explain distinctions for purposes of a possible continuing application; to thereby explore the best possible approach to crafting allowable claims for any such continuing application.

The undersigned next stated that Applicants were disappointed that the Examiner had not presented Voss as a reference in a non-final office action, so that ample opportunity could thereby have been provided to traverse Voss,

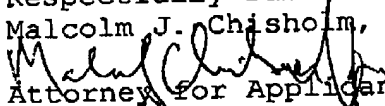
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For Interview of January 26, 2006

or otherwise present claims that would be allowable in light of Voss. The undersigned urged that Voss teaches Applicants' original, unamended claim 3, and hence Voss could have been presented in a non-final office action, and did not therefore result from a new search in light of Applicants' amended claims. The Examiner disagreed. The undersigned again thanked the Examiner for his generous expenditure of time in the interview, and the interview was concluded.

This ends the summary of the January 26, 2006 interview.

Applicants thereafter filed the above described Amendment on the same day, January 26, 2006, to put the Application in condition for allowance.

Respectfully submitted,
Malcolm J. Chisholm, Jr.

Attorney for Applicants
Registration No. 33,665
Telephone: (413) 243-0551

Date:

2/22/2006